

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Gabriel J Rivera

1411806311

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

THE DEPARTMENT OF CORRECTIONS

**AMENDED
COMPLAINT**

under the Civil Rights Act,
42 U.S.C. § 1983

Jury Trial: ☒ Yes ☐ No
(check one)

23 Civ. 04128 (LTS)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff's Name Gabriel J Rivera
ID# 23B2898
Current Institution Elmira Correctional Facility
Address P.O Box 500
Elmira, New York 14901-0500

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name _____ Shield # _____
Where Currently Employed _____
Address _____

Defendant No. 2 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Who did
what?

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur?

Rikers Island

1500 Hazen Street , East Elmhurst NY 11370

B. Where in the institution did the events giving rise to your claim(s) occur?

West Facility and The North Infirmary Command

C. What date and approximate time did the events giving rise to your claim(s) occur?

various dates, please see facts sheet

D. Facts: _____

What
happened
to you?

PLEASE SEE ADDITIONAL PAGE

Was
anyone
else
involved?

Who else
saw what
happened?

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

Decline in overall health. Decline in mental health. Mental Anguish, despair.
Anxiety , Panic attacks.
Stomach infection, Torn Ligaments , Torn rotator cuff, Torn Tendon. See
facts statement for details.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Rikers Island, in West Facility and The North Infirmary Command

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☐ No ☐ Do Not Know ☒

If YES, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

At the facility

1. Which claim(s) in this complaint did you grieve?

I honestly cannot remember I wrote so many

2. What was the result, if any?

There was NEVER any result. I don't know if my greivences were ever passed through the

appropriate channels

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any:

**I informed anyone that would listen of over the
years.**

- G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount).

Physical pain and suffering : \$10,000 each day

Unusal punishment : \$10,000 each day

Mental Anguish : \$10,000 each day

Or whatever the court deems just for everything that occured.

On
these
claims

VI. Previous lawsuits:

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ____ No ☒

B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

On
other
claims

C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ____ No ☒

D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____
Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ____ No ____
If NO, give the approximate date of disposition _____
7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) _____

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 27 day of **November**, 2023.

Signature of Plaintiff

G. Rivera

Inmate Number

23B2898

Institution Address

Elmira Correctional Facility

P.O Box 500

Elmira, New York 14902

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 27 day of **November**, 2023, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

G. Rivera

FACTS:

I was housed in West facility from July 2022 to July 2023. During that time I experienced multiples days where I was subjected to inhumane solitary confinement. In West facility we are suppose to be let out for an hour a day. But there were a copious amount of days where I was not let out and locked in my cell for 24 hours a day back to back days at a time. I was deprived of the proper food and medical care. On the days that I was let out to go to the yard I was put in cage where I was held for 1-2 hours. I cannot put exact dates because the solitary confinement , and being locked in the cages happened extremely often. I am dialysis and patient and I am immunocompromised . I am suppose to be able to access a nurse at any point of the day. Being on dialysis my vitals were supposed to be checked daily which did not happen. On June 5th 2023 I started feeling terribly unwell. There was something wrong. I had horrible stomach pains and diarrhea. I spoke to a nurse who gave me and said malox for gas and I was told I would be fine. I asked to speak to a doctor the nurse put the doctor on speaker phone and the doctor told me she was leaving I had to wait for someone to come on shift the next day. For the next 3 days the pain and diarrhea persisted with body weakness. No one did anything. As on June 8th I went to my dialysis treatment. When I got there they checked Blood pressure was dangerously high and I had a 102 fever. They proceeded to call an ambulance because of how unwell I was. Once at the hospital I was told if they would waited any longer to bring to the hospital I would have died. That's how bad Rikers island let me get , it turns out I had two stomach infections Shigella/Enteroinvasive E. coli and Enteroaggregative E coli. Which was caused by the food given to me by DOC. I then stood in the hospital until June 10th 2023. As being on dialysis patient. I was told I was supposed to be on strict diet , a dietitian was suppose to see me. The dietitian not one time ever came to see me. No matter how many times I inquired about it. I was fed food that I am NOT supposed to be eating. Foods with high amounts of salt , beef patties , hot pockets , foods with too much potassium potatoes , sweet potatoes , tomato's , bananas, oranges , milks. I was not fed the right protein. The without the right diet , it played a huge part in the decline of my daily living while being on dialysis. I was weak , dizzy , having little to no strength some days. I obtained a serious shoulder injury while on Rikers island. Which effected my quality of life. I was and I still am in severe pain , my shoulder would pop , my arm would go numb, it would

make me dizzy. I believe it happened around 2020-2021 in The North Infirmary Command. I was NOT Taken to the hospital or any of my appointments until 2022. I was told I have a torn rotator cuff, two torn ligaments and torn tendon tissue. Because of all this time had passed without ANY treatment the doctors said I now have no bone in my shoulder and they need to take bone from somewhere else to be put in my shoulder as well as other surgery to fix everything. If I did not have the surgery I was told I could have permanent shoulder damage. I was then told I would need physical therapy before and after the surgery. AS CONTINUED I WAS NOT TAKEN TO MY APPOINTMENTS. I WAS DENIED THE PROPER PHYSICAL THERAPY ON RIKERS ISLAND AND I WAS NEVER TAKEN FOR SURGEY. All in all I was NOT suppose to be housed in Facility in the first place because I needed to be able to access to nurses 24/7. But I was denied by DEPUTY WARDEN MILLER to be transferred back to the NORTH INFIRMARY COMMAND.

NOV. 2023

To whom this may concern,

I would like to to firstly apologize to the court for sending my amended complaint in late. I only found out about this recently. I was only made aware that the court given me a chance to make an amend when my wife was inquiring a lawyer to help me on this case. The lawyer informed us that there was an order to amend. If such order was sent to me by mail, it was never received by me. I currently do not have a lawyer representing me on this.



G. Rivera

23B2898

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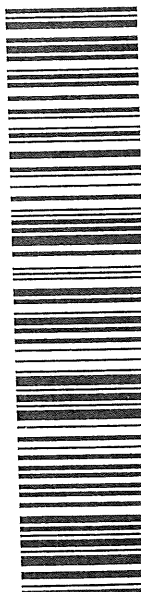
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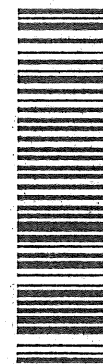
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